

CHARGE SHEET FORM

Fill in all spaces unless otherwise indicated and submit the original to the Office of Student Affairs in Room 400. Attach pages explaining how the alleged violation(s) occurred, giving dates and times when relevant, all supporting evidences or a detailed list of such evidences, statements as to the constitutional, statutory, and/or regulatory provisions allegedly violated, and a separate document explaining why a preliminary injunction is needed, if one is requested. You will be notified if your case is accepted, and will be notified in writing if your case is not. Please type or print clearly. E-mail the Chair and Assistant Chair (check www.asuc.org) should you require assistance and to notify the Council that you have filed a charge.

TO: ASUC Judicial Council

FROM: Myles Moscato

[You will be recognized as the spokesperson for the complainant before the Council unless otherwise noted in the hearing. JRP 4.7]

ADDRESS: 2005 Hearst Ave Apartment 3, Berkeley, CA, 94709

PHONE: 510-292-7316 E-MAIL: mylesmoscato@gmail.com

I, Myles Moscato, student,
[Spokesperson]

hereby request the ASUC Judicial

Council to issue a ☒ Direct Judgment ☐ Restraining Order ☐ Writ of Mandamus

☐ Advisory Opinion ☐ Appeal ☐ Rehearing

[Judicial Remedy sought, see JRP 3.13.1.1.1-3, 3.4, and 5.3-4]

against The V.O.I.C.E. Initiative (Campaign Manager: Lynn Yu, lynn@dailycal.org).

[Person(s) and/or organization]

The named person(s) may be contacted at lynn@dailycal.org or 714-386-0853

[E-mail address and phone number]

I charge the above person(s) with violating Title IV Section 17.4.3 and Title IV Section 7.5.1 and Section 1 Clause L

[Title, Article, Section, Clause, Item]

of the ASUC Bylaws

[ASUC Constitution, By-Law, Rules, Regulation, etc]

as explained in the attached.

____ I request an Expedited Hearing.

[Include a separate document explaining why an Expedited Hearing is necessary. See JRP 3.5.3]

____ I am requesting a Preliminary Injunction.

____ I am requesting a Gag Order. [See JRP 3.7]

[Include a separate document explaining why a Preliminary Injunction is needed. See JRP 3.8]

____ I am requesting witnesses/evidence be subpoenaed.

[Include all names and contact information as well as the reasons for the request. See JRP 3.9]

____ I am requesting witness depositions.

[Include all names and contact information. See JRP 3.10]

____ Charge Sheet is filed under seal. Only the Council will see this until such time as it is unsealed.

[Include a separate document explaining why the charge is filed under seal. See JRP 3.6.2.2]

Signed: Myles Moscato

Date: April 30, 2012

Received: _____

[OSA Director]

Date: _____ Time: _____

Evidence of Alleged Violation:

Title IV Section 7.5.1 of the ASUC Bylaws states:

“Unless otherwise stated in the Constitution or By-laws, (or in the case of student fee questions, applicable to University Policies), a favorable vote of a majority of the votes cast for and against the proposition shall be necessary for adoption of the proposition.”

This shows that all propositions – including initiatives and referendums are subject to the policies of the ASUC Constitution and By-laws. Additionally, as the V.O.I.C.E. initiative is a case regarding student fees, it must also comply with University Policies.

Section 1 Clause L of the ASUC Commercial Activities Agreement states:

“With respect to its role as the student government, the ASUC has maximum operating and decision-making discretion constrained only by the Chancellor's responsibility under the "University of California Policies Applying to Campus Activities, Organizations, and Students," and his/her obligation to ensure overall fiscal soundness, a safe and healthy environment, and fulfillment of all conditions outlined in specific agreements between the University and the ASUC on the UCB campus. “

As such, all stipulations within the ASUC Constitution and Bylaws must be constrained by the Chancellor's responsibilities under the University of California Policies Applying to Campus Activities, Organizations, and Students. The preamble to these policies further explains:

“These Policies and their campus implementing regulations are designed to protect and promote the rights of members of the University, prevent interference with University functions or activities, and assure compliance with all pertinent laws and other applicable University policies.”

Thus all policies under the University of California Policies Applying to Campus Activities, Organizations, and Students must be compliant with applicable University policies. Further, the ASUC is constrained these applicable University policies. The University's “Policy on Registered Campus Organizations” and “Policy On Compulsory Campus-Based Student Fees” state under Section 70.90 and 87.00 (respectively) Transfer of Compulsory Campus-Based Student Fees to Non-University Entities:

“The referendum process set forth in Section 82.00 of these Policies shall not be available either to establish a new compulsory campus-based student fee, or to lock in an increase to an existing such fee, for the purpose of supporting any non-University organization, program, or activity.”

The V.O.I.C.E. Initiative seeks to implement a new compulsory student fee that would go directly to the Daily Californian. The Daily Californian is a non-University organization, and as such cannot be supported by a referendum-based student fee.

Title IV Section 17.4.3 of the ASUC Bylaws states:

“If the ASUC Judicial Council rules that there was mismanagement, or that there was an unpunished violation, the ASUC Judicial Council may void the election on the grounds that the mismanagement or the unpunished violation substantially affected the outcome of the election.”

As such, a one Elizabeth Kopaskie filed a charge sheet on April 8, 2012 against the VOICE referendum pertaining to campaign violations. The charge sheet was filed in regards to violations of Title IV, Article XII, Section 12.3, Clause 6; Title IV, Article XII, Section 12.6, Clause 1, Title IV, Article XII, Section 12.6, Clause 4, Title IV, Article XII, Section 12.6, Clause 8.

This charge sheet was dismissed by the Judicial Council under the grounds that an Executive Order was issued by President Vishalli Loomba on April 11, 2012 voiding the V.O.I.C.E. referendum altogether. The Executive order was then subsequently overturned and the alleged campaign violations cited in the charge sheet filed by Elizabeth Kopaskie went unpunished. It is under my belief that the lack of punishment for these violations substantially affected the outcome of the election.

For this reason, I believe the V.O.I.C.E. Initiative has violated the policies of the ASUC and should be brought before the Judicial Council. I would like to push for a punishment that entails disqualification from the current ASUC Election.

Note: The facts here are based in bylaw and policy violations as opposed to witness-able infractions. While I respect the Judicial Council's right to issue a Summary Judgment based on its own considerations, I strongly urge the Council to consider this option. I believe the Judicial Council can sufficiently analyze the situation without a full hearing.